

**ASSEMBLY BILL**

**No. 2260**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Furutani (Vice Chair), Beall, and Torrico)**

February 18, 2010

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An act to amend Sections 22126, 22212.5, 22380, 22713, 22803, 22901, 23801, 23851, 24002, 24005, 24018, 24102, 24105, 24119, 24214.5, 24300.1, 24309, 24607, and 27406 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2260, as introduced, Committee on Public Employees, Retirement and Social Security. State teachers' retirement: administration: benefits.

The State Teachers' Retirement Law, which is administered by the Teachers' Retirement Board, prescribes a comprehensive system of rights and benefits for its members, including disability benefits, retirement, death benefits, and absences under the Family Medical Leave Act.

This bill would make clarifying changes to those provisions of law, including changes that would identify employees whom subject to conflict of interest provisions, provide that a cancellation or change in a retirement option may not be made on the effective date of a member's retirement, clarify that applications for disability retirement are required to be submitted on properly executed forms, and conform those provisions with applicable provisions of federal law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 22126 of the Education Code is amended to read:

22126. “Disability” or “disabled” means any medically determinable physical or mental impairment that is permanent or that can be expected to last continuously for at least 12 months, measured from the onset of the disability, but no earlier than the day following the last day of *factual performance of* service that prevents a member from performing the member’s usual duties for the member’s employer, the member’s usual duties for the member’s employer with reasonable modifications, or the duties of a comparable level position for which the member is qualified or can become qualified within a reasonable period of time by education, training, or experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

SEC. 2. Section 22212.5 of the Education Code is amended to read:

22212.5. (a) Except as otherwise provided in subdivision (d), this section shall apply to the following positions in the system: chief executive officer, system actuary, general counsel, chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1 of the Government Code.

(b) Notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 of the Government Code, the board shall fix the compensation for the positions specified in subdivision (a). In so doing, the board shall be guided by the principles contained in Sections 19826 and 19829 of the Government Code, consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(c) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in those positions shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary

responsibility to its members, including the employee's failure to meet specified performance objectives.

(d) An individual who held a position designated in subdivision (a), or was a member of the board, *a chief of staff*, a deputy chief executive officer, *chief financial officer*, or ~~an assistant executive officer~~ *was in an equivalent senior management position*, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or by making any oral or written communication to the board, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

SEC. 3. Section 22380 of the Education Code is amended to read:

22380. (a) The board shall establish a building account for the transfer of money appropriated for that purpose from the retirement fund for the construction or remodeling of buildings and improvements thereon, maintenance, repair, and improvement thereof. ~~For accounting purposes, the board shall pay rental to the building account in an amount sufficient to repay all costs of acquisition, construction, and maintenance of space used by the board plus interest to the retirement fund.~~

(b) The board may contract with the Department of General Services for the purchase of insurance against loss of, or damage to, the property or the loss of use or occupancy of the building, liability insurance, and other insurance that is customarily carried on state office buildings. Premiums for this insurance shall be paid from the building account.

(c) The land, building, equipment, and improvements thereon, shall constitute an investment, ~~in lieu of facilities operations cost, in the retirement fund of the system~~ and shall be carried on the books thereof ~~as such~~ in accordance with generally accepted accounting ~~practices~~ *principles*.

SEC. 4. Section 22713 of the Education Code is amended to read:

1     22713. (a) Notwithstanding any other provision of this chapter,  
2 the governing board of a school district or a community college  
3 district or a county superintendent of schools may establish  
4 regulations that allow an employee who is a member of the Defined  
5 Benefit Program to reduce his or her workload from full time to  
6 part time, and receive the service credit the member would have  
7 received if the member had been employed on a full-time basis  
8 and have his or her retirement allowance, as well as other benefits  
9 that the member is entitled to under this part, based, in part, on  
10 final compensation determined from the compensation earnable  
11 the member would have been entitled to if the member had been  
12 employed on a full-time basis, and as further specified in Sections  
13 44922, 87483, and 89516.

14     (b) The regulations shall include, but may not be limited to, the  
15 following:

16     (1) The option to reduce the member's workload shall be  
17 exercised at the request of the member and may be revoked only  
18 with the mutual consent of the employer and the member. The  
19 agreement to reduce a member's workload shall be in effect at the  
20 beginning of the school year.

21     (2) The member shall have been employed on a full-time basis  
22 to perform creditable service subject to coverage under the Defined  
23 Benefit Program and have a minimum of 10 years of credited  
24 service prior to the reduction in workload. Additionally, the  
25 member shall have five years of full-time employment immediately  
26 preceding the reduction in workload.

27     (3) The member may not have had a break in service during the  
28 five years immediately preceding the reduction in workload. For  
29 purposes of this subdivision, sabbaticals, other approved leaves  
30 of absence, and unpaid absences from the performance of creditable  
31 service for personal reasons from full-time employment do not  
32 constitute a break in service. For purposes of this subdivision, the  
33 period of time during which a member is retired for service shall  
34 constitute a break in service and a member who reinstates from  
35 retirement shall be required to be employed on a full-time basis  
36 to perform creditable service for at least five school years  
37 immediately preceding the reduction in workload.

38     (4) The member shall have reached 55 years of age prior to the  
39 reduction in workload.

1 (5) The reduced workload shall be performed for a period of  
2 time, as specified in the regulations, up to and including 10 years.  
3 The period of time specified in the regulations may not exceed 10  
4 years.

5 (6) The reduced workload shall be equal to at least one-half of  
6 the time the employer requires for full-time employment in  
7 accordance with Section 22138.5 pursuant to the member's contract  
8 of employment during his or her last school year of full-time  
9 employment preceding the reduction in workload.

10 (7) The member shall be paid creditable compensation that is  
11 the pro rata share of the creditable compensation the member would  
12 have been paid had the member not reduced his or her workload.

13 (c) Prior to the reduction of a member's workload under this  
14 section, the employer, in conjunction with the administrative staff  
15 of the State Teachers' Retirement Plan and the Public Employees'  
16 Retirement System, shall verify the member's eligibility for the  
17 reduced workload program.

18 (d) For each school year the member's workload is reduced  
19 pursuant to this section, the member shall make contributions to  
20 the Teachers' Retirement Fund in the amount that the member  
21 would have contributed if the member had performed creditable  
22 service on a full-time basis and if that service was subject to  
23 coverage under the Defined Benefit Program.

24 (e) For each school year the member's workload is reduced  
25 pursuant to this section, the employer shall contribute to the  
26 Teachers' Retirement Fund at a rate adopted by the board as a plan  
27 amendment with respect to the Defined Benefit Program an amount  
28 based upon the creditable compensation that would have been paid  
29 to the member if the member had performed creditable service on  
30 a full-time basis and if that service was subject to coverage under  
31 the Defined Benefit Program.

32 (f) The employer shall maintain the necessary records to  
33 separately identify each member who participates in the reduced  
34 workload program pursuant to this section.

35 (g) A member who retires or otherwise separates from service  
36 prior to the end of the school year shall be in violation of this  
37 section and the member's service credit for that period of the  
38 contract shall be computed in accordance with Section 22701.

39 (h) *A member performing service in accordance with this section*  
40 *may not terminate his or her agreement pursuant to paragraph*

1 (1) of subdivision (b) if the employer has a formalized agreement  
2 to pick up member contributions pursuant to Section 22903. A  
3 member may terminate the agreement only if the employee takes  
4 one of the following actions:

5 (1) Terminates service.

6 (2) Retires from service under the Defined Benefit Program.

7 (3) Continues to perform service pursuant to this section under  
8 a new arrangement to perform creditable service for at least  
9 one-half of the time the employer requires for full-time employment  
10 in accordance with Section 22138.5.

11 (4) Returns to full-time employment.

12 SEC. 5. Section 22803 of the Education Code is amended to  
13 read:

14 22803. (a) A member, other than a retired member, may  
15 request to purchase service credit for any of the following:

16 (1) Service performed in a teaching position in the University  
17 of California or California State University that is not covered by  
18 another public retirement system.

19 (2) Service performed in a certificated teaching position in a  
20 child care center operated by a county superintendent of schools  
21 or a school district in this state.

22 (3) Service performed in a teaching position in the California  
23 School for the Deaf or the California School for the Blind, or in  
24 special classes maintained by the public schools of this state for  
25 the instruction of the deaf, the hard of hearing, the blind, or the  
26 semisighted.

27 (4) Service performed in a certificated teaching position in a  
28 federally supported and administered Indian school in this state.

29 (5) Time served, not to exceed two years, in a certificated  
30 teaching position in a job corps center administered by the United  
31 States government in this state if the member was employed to  
32 perform creditable service subject to coverage under the Defined  
33 Benefit Program within one year prior to entering the job corps  
34 and returned to employment to perform creditable service subject  
35 to coverage under the Defined Benefit Program within six months  
36 following the date of termination of service in the job corps.

37 (6) Time served, not to exceed two years, in a teaching position  
38 as a member of the Peace Corps if the member was employed to  
39 perform creditable service subject to coverage under the Defined  
40 Benefit Program within one year prior to entering the Peace Corps

1 and returned to employment to perform creditable service subject  
2 to coverage under the Defined Benefit Program within six months  
3 following the date of termination of service in the Peace Corps.

4 (7) Time spent on a sabbatical leave, approved by an employer  
5 in this state after meeting the requirements of Section 44969.

6 (8) Time spent on an approved leave, approved by an employer  
7 in this state, to participate in any program under the federal Mutual  
8 Educational and Cultural Exchange Program.

9 (9) Time spent on leave approved by an employer in this state  
10 as maternity or paternity leave, not to exceed 24 consecutive  
11 months, regardless of whether or not the leave was taken before  
12 or after the addition of this subdivision.

13 (10) Time spent on an employer-approved leave based on the  
14 guidelines for the Family and Medical Leave Act or the California  
15 Family Rights Act, or both, up to ~~four months~~ *a total of 12*  
16 *workweeks* in any 12-month period.

17 (11) Time spent employed by the Board of Governors of the  
18 California Community Colleges in a position subject to coverage  
19 by the Public Employees' Retirement System between July 1,  
20 1991, and December 31, 1997, provided the member has elected  
21 to return to coverage under the State Teachers' Retirement System  
22 pursuant to Section 20309 of the Government Code.

23 (b) In no event shall the member receive credit for service or  
24 time described in paragraphs (1) to (11), inclusive, of subdivision  
25 (a) if the member has received or is eligible to receive credit for  
26 the same service or time in the Cash Balance Benefit Program  
27 under Part 14 (commencing with Section 26000) or another public  
28 retirement system.

29 SEC. 6. Section 22901 of the Education Code is amended to  
30 read:

31 22901. (a) Each member of the Defined Benefit Program shall  
32 contribute to the retirement fund an amount equivalent to 8 percent  
33 of the member's creditable compensation.

34 (b) *Notwithstanding Section 22905, any member contributions*  
35 *for service performed during the 2010–11 school year with a*  
36 *service period ending after December 31, 2010, shall be credited*  
37 *pursuant to subdivision (a).*

38 SEC. 7. Section 23801 of the Education Code is amended to  
39 read:

1 23801. (a) A death payment of no less than five thousand  
2 dollars (\$5,000) shall be paid to the beneficiary upon receipt of  
3 proof of death of a member who had one or more years of credited  
4 service, at least one of which had been performed subsequent to  
5 the most recent refund of accumulated retirement contributions,  
6 if the member died during any one of the following periods:

7 (1) While *increditable* employment for which compensation is  
8 paid.

9 (2) While disabled, if the disability had been continuous from  
10 the last day for which *creditable* compensation had been paid.

11 (3) Within four months after termination of *creditable* service  
12 or termination of employment, whichever occurs first.

13 (4) Within four months after termination of a disability  
14 allowance if no service was performed after the termination.

15 (5) Within 12 months of the last day for which *creditable*  
16 compensation was paid, if the member was on an approved leave  
17 of absence without compensation for reasons other than disability  
18 or military service.

19 (b) A death payment pursuant to this section shall not be payable  
20 for the death of a member that occurs within one year commencing  
21 with the effective date of reinstatement from service retirement  
22 pursuant to Section 24208.

23 (c) The board may adjust the death payment amount following  
24 each actuarial valuation based on changes in the All Urban  
25 California Consumer Price Index and adopt any adjusted amount  
26 as a plan amendment.

27 (d) A beneficiary may waive his or her right to the death  
28 payment in accordance with the requirements established by the  
29 system.

30 SEC. 8. Section 23851 of the Education Code is amended to  
31 read:

32 23851. (a) A death payment of not less than twenty thousand  
33 dollars (\$20,000) shall be paid to the beneficiary, as designated  
34 pursuant to Section 23300, upon receipt of proof of death of ~~an~~  
35 ~~active a~~ member, who had one or more years of credited service,  
36 at least one of which had been performed subsequent to the most  
37 recent refund of accumulated retirement contributions, if the  
38 member died during any one of the following periods:

39 (1) While in employment for which creditable compensation is  
40 paid.



1 (2) Within four months after termination of creditable service  
2 or termination of employment, whichever occurs first.

3 (3) Within 12 months of the last day for which creditable  
4 compensation was paid, if the member was on an approved leave  
5 of absence without creditable compensation for reasons other than  
6 disability or military service.

7 (b) A death payment pursuant to this section shall not be payable  
8 for the death of a member that occurs within one year commencing  
9 with the effective date of termination of the service retirement  
10 allowance pursuant to Section 24208 or during the six calendar  
11 months commencing with the effective date of termination of the  
12 disability retirement allowance pursuant to Section 24117.

13 (c) The board may adjust the death payment amount following  
14 each actuarial valuation based on changes in the All Urban  
15 California Consumer Price Index and adopt as a plan amendment  
16 with respect to the Defined Benefit Program any adjusted amount.

17 (d) A designated beneficiary may waive the right to the death  
18 payment in accordance with the requirements established by the  
19 system.

20 SEC. 9. Section 24002 of the Education Code is amended to  
21 read:

22 24002. The board may authorize payment of a disability  
23 allowance to any member who is qualified upon application under  
24 this part by the member, the member's guardian or conservator,  
25 or the member's employer, if the application is ~~made~~ *submitted*  
26 *on a properly executed form prescribed by the system* during any  
27 one of the following periods:

28 (a) While the member is employed or on a compensated leave  
29 of absence.

30 (b) While the member is physically or mentally incapacitated  
31 for performance of service and the incapacity has been continuous  
32 from the last day of actual performance of service for which  
33 compensation is payable to the member.

34 (c) While the member is on a leave of absence without  
35 compensation, granted for reason other than mental or physical  
36 incapacity for performance of service, and within four months  
37 after the last day of actual performance of service for which  
38 compensation is payable to the member, or within 12 months of  
39 that date if the member is on an employer-approved leave to study  
40 at an approved college or university.

(d) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under subdivision (b) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(e) A member with a dependent child, who becomes disabled prior to normal retirement age, and whose sick leave will extend beyond normal retirement age, may be awarded a disability allowance with an effective date after normal retirement age, if the application is filed prior to attaining normal retirement age.

(f) The member is not applying for a disability allowance because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 10. Section 24005 of the Education Code is amended to read:

24005. (a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for disability allowance is filed on a *properly executed* form ~~provided~~ *prescribed* by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's

1 application for a disability allowance shall be rejected and a  
2 disability allowance shall not be payable to the member.

3 SEC. 11. Section 24018 of the Education Code is amended to  
4 read:

5 24018. When a disabled member returns to work in his or her  
6 former position of employment or in a comparable level position  
7 and within six months of return experiences a recurrence of the  
8 original disability, that can be medically substantiated, it shall be  
9 considered, for the purpose of determining the duration of the  
10 disability, that the condition had its onset as of the date the member  
11 first became disabled. The former disability allowance under this  
12 part shall again become payable as of the later of the first day of  
13 the month in which the recurrence of the disability occurred or the  
14 last day of *creditable* service for which compensation is payable  
15 to the member provided the member complies with the provisions  
16 of Section 24003.

17 SEC. 12. Section 24102 of the Education Code is amended to  
18 read:

19 24102. The board may authorize payment of a disability  
20 retirement allowance under this part to any member who is  
21 qualified upon application by the member, the member's guardian  
22 or conservator, or the member's employer, if the application is  
23 *made submitted on a properly executed form prescribed by the*  
24 *system* during any one of the following periods:

25 (a) While the member is employed or on a compensated leave  
26 of absence.

27 (b) While the member is physically or mentally incapacitated  
28 for performance of service and the incapacity has been continuous  
29 from the last day of actual performance of service for which  
30 compensation is payable to the member.

31 (c) While the member is on a leave of absence without  
32 compensation, granted for reason other than mental or physical  
33 incapacity for performance of service, and within four months  
34 after the last day of actual performance of service for which  
35 compensation is payable to the member, or within 12 months of  
36 that date if the member was on an employer-approved leave to  
37 study at an approved college or university.

38 (d) Within four months after the termination of the member's  
39 employment subject to coverage under the Defined Benefit  
40 Program, if the application was not made under subdivision (b)

1 and was not made more than four months after the last day of actual  
2 performance of service for which compensation is payable to the  
3 member.

4 (e) The member is not applying for a disability retirement  
5 allowance because of a physical or mental condition that existed  
6 at the time the most recent membership in the Defined Benefit  
7 Program commenced and which remains substantially unchanged  
8 at the time of application.

9 SEC. 13. Section 24105 of the Education Code is amended to  
10 read:

11 24105. (a) A disability retirement allowance under this part  
12 shall become effective upon any date designated by the member,  
13 provided that all of the following conditions are met:

14 (1) An application for disability retirement is filed on *properly*  
15 *executed* form ~~provided~~ *prescribed* by the system.

16 (2) The effective date is later than the last day of *creditable*  
17 service for which compensation is payable to the member.

18 (3) The effective date is no earlier than either the first day of  
19 the month in which the application is received at the system's  
20 headquarters office, as established pursuant to Section 22375, or  
21 the date upon and continuously after which the member is  
22 determined to the satisfaction of the board to have been mentally  
23 incompetent.

24 (b) If a member's application for disability retirement under  
25 this part does not contain an election of either an unmodified  
26 allowance or an allowance modified under an option and if the  
27 member subsequently submits an election, but not within the  
28 30-day period established pursuant to Section 24301, the board  
29 shall set a benefit effective date which is no earlier than the first  
30 day of the month in which the subsequent election is received by  
31 the system. If the member fails to submit an election pursuant to  
32 Section 24301 and within six months of the date the  
33 acknowledgment notice is mailed pursuant to Section 24301, the  
34 member's application for disability retirement under this part shall  
35 be rejected.

36 (c) If the member is employed to perform creditable service  
37 subject to coverage under the Defined Benefit Program at the time  
38 the disability retirement is approved, the member shall notify the  
39 system in writing, within 90 days, of the last day on which the  
40 member will perform service. If the member does not respond

1 within 90 days, or if the last day on which service will be  
2 performed is more than 90 days after the date the system notifies  
3 the member of the approval of disability retirement, the member's  
4 application for disability retirement shall be rejected and a  
5 disability retirement allowance shall not be payable to the member.

6 SEC. 14. Section 24119 of the Education Code is amended to  
7 read:

8 24119. When a member retired for disability under this part  
9 returns to work in the member's former position of employment  
10 or in a comparable level position and within six months of return  
11 experiences a recurrence of the original disability, which can be  
12 medically substantiated, it shall be considered, for the purpose of  
13 determining the duration of the disability, that the condition had  
14 its onset as of the date the member first became disabled. The  
15 former disability retirement allowance shall again become payable  
16 as of the later of the first day of the month in which the recurrence  
17 of the disability occurred or the last day of *creditable* service for  
18 which compensation is payable to the member, provided the  
19 member complies with Section 24103.

20 SEC. 15. Section 24214.5 of the Education Code is amended  
21 to read:

22 24214.5. (a) Notwithstanding Section 24214, as of July 1,  
23 2010, the postretirement compensation limitation that shall apply  
24 to the compensation for performance of the activities identified in  
25 subdivision (a) or (b) of Section 22119.5 either as an employee of  
26 an employer, an employee of a third party, or as an independent  
27 contractor, *within the California public school system*, shall be  
28 zero dollars (\$0) during the first six calendar months after a  
29 member retired for service under this part, if the member is below  
30 normal retirement age at the time the compensation is earned.

31 (b) If a member retired for service under this part earns  
32 compensation for performing activities identified in subdivision  
33 (a) or (b) of Section 22119.5 in excess of the limitation specified  
34 in subdivision (a), as an employee of an employer, as an employee  
35 of a third party, or as an independent contractor, within the  
36 California public school system, the member's retirement  
37 allowance shall be reduced by the amount of the excess  
38 compensation. The amount of the reduction may be equal to the  
39 monthly allowance payable but may not exceed the amount of the

1 annual allowance payable under this part for the fiscal year in  
2 which the excess compensation was earned.

3 SEC. 16. Section 24300.1 of the Education Code is amended  
4 to read:

5 24300.1. (a) A member may, prior to the effective date of his  
6 or her retirement, elect an option pursuant to this part that would  
7 provide an actuarially modified retirement allowance payable  
8 throughout the life of the member and the member's option  
9 beneficiary or beneficiaries, as follows:

10 (1) One hundred percent beneficiary option. The modified  
11 retirement allowance shall be paid to the member and upon the  
12 member's death, 100 percent of the modified allowance shall  
13 continue to be paid to the option beneficiary.

14 (2) Seventy-five percent beneficiary option. The modified  
15 retirement allowance shall be paid to the member and upon the  
16 member's death, 75 percent of the modified allowance shall  
17 continue to be paid to the option beneficiary. Pursuant to Section  
18 401(a)(9) of the Internal Revenue Code, unless the option  
19 beneficiary is the member's spouse or former spouse who has been  
20 awarded a community property interest in the benefits of the  
21 member under this part, the member may not designate an option  
22 beneficiary under this option who is more than exactly 19 years  
23 younger than the member.

24 (3) Fifty percent beneficiary option. The modified retirement  
25 allowance shall be paid to the member and upon the death of the  
26 member, 50 percent of the modified allowance shall continue to  
27 be paid to the option beneficiary.

28 (4) Compound option. The member may designate multiple  
29 option beneficiaries or one or multiple option beneficiaries with  
30 a designated percentage to remain unmodified. The member shall  
31 elect an option as described in paragraph (1), (2), or (3) for each  
32 designated option beneficiary that would provide an actuarially  
33 modified retirement allowance payable throughout the lives of the  
34 member and the member's option beneficiary or beneficiaries.

35 (A) The modified retirement allowance shall be paid to the  
36 member as long as the member and at least one option beneficiary  
37 is living. Upon the member's death, an allowance shall be paid to  
38 each surviving option beneficiary in accordance with the option  
39 elected respective to that option beneficiary. If an option  
40 beneficiary predeceases the member, the member's allowance shall

1 be adjusted in accordance with the option elected for the deceased  
2 option beneficiary.

3 (B) The member shall specify the percent of the unmodified  
4 allowance that will be modified by the election of each option  
5 described in paragraph (1), (2), or (3) of this subdivision. The  
6 percent of the unmodified allowance that is not modified by an  
7 option, if any, shall be payable to the member. The sum of the  
8 percentages specified for the option beneficiary or beneficiaries  
9 and the member's remaining unmodified allowance, if any, shall  
10 equal 100 percent.

11 (C) The member's election of the Compound Option is subject  
12 to all of the following:

13 (i) Pursuant to Section 401(a)(9) of the Internal Revenue Code,  
14 unless the option beneficiary is the member's spouse or former  
15 spouse who has been awarded a community property interest in  
16 the member's benefits under this part, the member may not  
17 designate an option beneficiary under the 100 percent beneficiary  
18 option within this compound option who is more than exactly 10  
19 years younger than the member.

20 (ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code,  
21 unless the option beneficiary is the member's spouse or former  
22 spouse who has been awarded a community property interest in  
23 the member's benefits under this part, the member may not  
24 designate an option beneficiary under the 75 percent beneficiary  
25 option within this compound option who is more than exactly 19  
26 years younger than the member.

27 (b) *For purposes of this section, the member shall designate an*  
28 *option beneficiary on a properly executed form prescribed by the*  
29 *system, which shall be duly executed and filed with the system at*  
30 *the time of the member's retirement.*

31 (c) *A member may revoke or change an election of an option*  
32 *at any time prior to the effective date of the member's retirement*  
33 *under this part. A revocation of an option may not be made in*  
34 *derogation of a spouse's or a former spouse's community property*  
35 *rights as specified in a court order.*

36 ~~(b)~~

37 (d) If an option beneficiary designated pursuant to paragraphs  
38 (1) to (3), inclusive, of subdivision (a) predeceases the member,  
39 the retirement allowance shall be paid to the member without  
40 modification for the option. If the option beneficiary predeceases

1 the member, the member may designate a new option beneficiary.  
2 The effective date of the new designation shall be six months  
3 following the date of notification is received by the board, provided  
4 both the member and the designated option beneficiary are then  
5 living. Notification shall be on a properly executed form provided  
6 by the system. The designation of the new option beneficiary  
7 pursuant to this subdivision is subject to an actuarial modification  
8 of the unmodified retirement allowance and may not result in  
9 additional liability to the fund. The new option beneficiary cannot  
10 be an existing option beneficiary.

11 ~~(e)~~  
12 (e) Notwithstanding Section 297 or 299.2 of the Family Code,  
13 a spouse described in paragraphs (2) and (4) of subdivision (a)  
14 does not include the domestic partner of the member, pursuant to  
15 Section 7 of Title 1 of the United States Code.

16 ~~(d)~~  
17 (f) If there is a determination of community property rights as  
18 described in Chapter 12 (commencing with Section 22650) of this  
19 part on or before December 31, 2006, the member may elect the  
20 option that is required by the judgment or court order. Nothing in  
21 this part shall permit the member to change the option to the  
22 detriment of the community property interest of the nonmember  
23 spouse.

24 ~~(e)~~  
25 (g) The board may evaluate the existing options and annuities  
26 provided pursuant to this section, Chapter 38 (commencing with  
27 Section 25000) of this part, and Part 14 (commencing with Section  
28 26000) and adopt, as a plan amendment, any appropriate changes  
29 to the options and annuities based on the needs of the members,  
30 participants, and their beneficiaries, including, but not limited to,  
31 providing economic security for beneficiaries and reducing the  
32 complexity of the options and annuities. The changes to the options  
33 and annuities may have no net actuarial impact on the retirement  
34 fund and the board may establish any eligibility criteria the board  
35 deems necessary to prevent an adverse actuarial impact to the fund.  
36 The board shall designate the effective date of the plan amendment,  
37 which shall be at least 18 months after the amendment is adopted  
38 by the board, and notwithstanding any other provision of this  
39 section, the options and annuities available to members and  
40 participants eligible to retire pursuant to this part and Part 14



1 (commencing with Section 26000), after the effective date of the  
2 plan amendment made pursuant to this subdivision, shall reflect  
3 the changes adopted as a plan amendment to this subdivision.

4 SEC. 17. Section 24309 of the Education Code is amended to  
5 read:

6 24309. (a) A member may change or cancel the election of an  
7 option made pursuant to Section 24307. The change or cancellation  
8 shall be on a properly executed form provided by the system and  
9 received at the system's headquarters office, as established pursuant  
10 to Section 22375, within 30 days of the date of the member's  
11 signature and, if applicable, the spouse's signature, and ~~on or~~ before  
12 the effective date of retirement under this part or during the period  
13 between termination of the retirement allowance pursuant to  
14 Section 24208 or 24117 and the effective date of the subsequent  
15 retirement under this part. The change or cancellation shall become  
16 effective as of the date of the member's signature.

17 (1) Any change to an election of an option shall be made  
18 according to Section 24307 and shall be considered a new  
19 preretirement election of an option.

20 (2) Regardless of how the member elects to receive his or her  
21 retirement allowance, a change made to an election of an option  
22 or a cancellation of an option shall result in the reduction of that  
23 allowance by an amount determined by the board to be the actuarial  
24 equivalent of the coverage the member received as a result of the  
25 preretirement election and that does not result in any adverse  
26 funding to the plan.

27 (b) If the option beneficiary designated in the preretirement  
28 election of an option pursuant to Section 24307 dies prior to the  
29 member's retirement, the preretirement election shall be canceled  
30 as of the day following the date of death and the member's  
31 subsequent retirement allowance under this part shall be subject  
32 to the allowance reduction prescribed in this section.

33 (c) If the option elected pursuant to Section 24307 is Option 8  
34 as described in paragraph (7) of subdivision (a) of Section 24300  
35 or the compound option as described in paragraph (4) of  
36 subdivision (a) of Section 24300.1, a member may cancel the  
37 designation of an option beneficiary. If the member cancels the  
38 designation of the option beneficiary or the option beneficiary  
39 predeceases the member prior to the member's retirement, the  
40 member may elect to receive that portion of the retirement

1 allowance without modification for the option or elect one or  
2 multiple new or existing option beneficiaries as described in  
3 Section 24307. Any change or cancellation of the designation of  
4 the option beneficiary under this subdivision shall result in the  
5 allowance reduction prescribed in this section.

6 SEC. 18. Section 24607 of the Education Code is amended to  
7 read:

8 ~~24607. Any warrant in an amount less than two thousand~~  
9 ~~dollars (\$2,000) paid~~ *payment issued* by the system under this part,  
10 for the month in which a retired member or disabled member  
11 dies, ~~or any subsequent month shall not be invalidated~~ *be revoked*  
12 by the system, ~~except upon the request of the beneficiary of the~~  
13 ~~retired member or disabled member.~~

14 SEC. 19. Section 27406 of the Education Code is amended to  
15 read:

16 27406. The nonparticipant spouse who is awarded separate  
17 nominal accounts with respect to the Cash Balance Benefit Program  
18 shall have the right to a lump-sum distribution of amounts credited  
19 to the account.

20 (a) The nonparticipant spouse shall file an application on a form  
21 provided by the system to obtain the distribution.

22 (b) The distribution is effective when the system deposits in the  
23 United States mail a warrant drawn in favor of the nonparticipant  
24 spouse and addressed to the latest address for the nonparticipant  
25 spouse on file with the system.

26 (c) If the nonparticipant spouse has elected on a form provided  
27 by the system to transfer all or a specified portion of the accounts  
28 that are eligible for direct trustee-to-trustee transfer under Section  
29 401(a)(31) of Title 26 of the United States Code to the trustee of  
30 a qualified plan under Section 402 of Title 26 of the United States  
31 Code, deposit in the United States mail of a notice that the  
32 requested transfer has been made constitutes a distribution of the  
33 nonparticipant spouse's credit balance from the separate nominal  
34 accounts. *This subdivision shall not apply to a nonparticipant*  
35 *partner consistent with Section 402 of the Internal Revenue Code.*

36 (d) The nonparticipant spouse is deemed to have permanently  
37 waived all rights to an annuity when the distribution becomes  
38 effective.

39 (e) The nonparticipant spouse may not cancel a distribution  
40 after the distribution is effective.

- 1 (f) The nonparticipant spouse shall have no right to elect to
- 2 redeposit the distribution after the distribution is effective.

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